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7
8 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

9 WESTERN PROGRESSIVE – NEVADA,
10 INC.,

Case No.: 2:19-cv-01141-JCM-DJA

11 Plaintiff,

12 v.

STIPULATED JUDGMENT BETWEEN
WESTERN - PROGRESSIVE NEVADA
INC. AND THE UNITED STATES

13 THE UNITED STATES OF AMERICA (IRS);
14 C SCOTT GARDNER, an individual; TONYA
GARDNER, an individual; NEVADA
DEPARTMENT OF TAXATION; and DOES
15 1 through 50, inclusive,

16 Defendants.

17
18 Defendant the United States of America and Plaintiff Western Progressive - Nevada Inc.
19 (“Western Progressive”) submit the following stipulated judgment resolving Plaintiff’s request
20 for attorney’s fees and costs and its pending motion for summary judgment (ECF No. 26):

21 1. This stipulation is made with regard to the \$85,793.96 of surplus proceeds that
22 arose from the trustee’s sale of the property previously owned by C. Scott and Tonya Gardner at
23 2003 Aspen Brook Drive, Henderson, Nevada 89074.

1 2. The United States submitted a claim (Doc. 9) for unpaid federal income tax from
2 Scott and Tonya Gardner for 2006 in the amount of \$67,466.82; for unpaid 26 U.S.C. § 6672 tax
3 from Scott Gardner for tax periods ending September 30, 2007; June 30, 2009; September 30,
4 2009; December 31, 2009; and September 30, 2010 in the total amount of \$23,629.34; and for
5 unpaid federal income tax from Scott Gardner for 2011 in the amount of \$6,904.05. The total
6 amount of the United States' claim was \$98,000.21 as of August 16, 2019. That amount
7 continues to accrue interest.

8 3. The United States and the Nevada Department of Revenue previously stipulated
9 the priority of their claims (ECF No. 24), with the United States' claim having priority, which
10 means it would take all of the interpleader funds because its claim is larger than the available
11 funds. The Court entered an order granting the stipulation (ECF No. 25).

12 4. Plaintiff has moved for summary judgment requesting attorney's fees and costs
13 for its work in this case and for its work in the underlying trustee's sale giving rise to the funds.

14 5. Western Progressive and the United States agree that Western Progressive is
15 entitled to \$4,985.10 in fees and costs. This amount is to be paid out of the interpleader funds.
16 The remaining funds are to be paid to the United States.

17 6. Plaintiff withdraws its motion for summary judgment.

18 7. After the Court enters an order approving this stipulation, Plaintiff will distribute
19 the funds directly to the parties in accordance with the prior stipulated priority, and this
20 judgment.

21 8. Other than the \$4,985.10 provided for in this stipulation, the parties shall bear
22 their own fees and costs, including for any future stipulations or motions to distribute filed with
23 the Court.

1 9. Upon entry of the Order granting this stipulation, and entry of any final judgment
2 required by the Court, all pending claims will have been resolved, and the case shall be closed.

3 WHEREFORE the below parties stipulate and request an order confirming the foregoing.

4
5 DATED: February 5, 2020

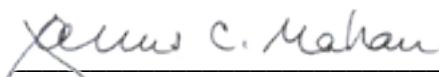
RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

6 /s/ Alexander Stevko
7 ALEXANDER STEVKO
8 Trial Attorney, Tax Division
9 U.S. Department of Justice

10 DATED: February 5, 2020

/s/ Shadd Wade (with permission)
SHADD WADE
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Attorney for Western Progressive

14 IT IS SO ORDERED

15 
16 _____
UNITED STATES DISTRICT JUDGE
17 DATED: February 7, 2020 _____

1 **CERTIFICATE OF SERVICE**

2 I, Alexander Stevko, certify that on February 5, 2020, I filed the foregoing Stipulation the
3 Court's e-filing system, which will send electronic notification to the following:

4 **Shadd A. Wade**

swade@zbslaw.com

Attorney for Western Progressive

5 **David J. Pope**

6 dpope@ag.nv.gov

Attorney for Nevada Department of Taxation